

Notice of Allowability

Application No.

10/710,443

Examiner

Erica E. Cadugan

Applicant(s)

JALOVE ET AL.

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to dkt 36123-400500, filed 7/12/04, and interview of 2/14/06.
2. ☒ The allowed claim(s) is/are 1-33.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>7/12/04</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Joseph Lanser on February 14, 2006.

The application has been amended as follows:

In claim 2, line 1, --the-- has been inserted after "wherein".

In claim 27, line 2, "the key blank" has been changed to --a key blank--.

2. The following is an examiner's statement of reasons for allowance:

U.S. Pat. No. 3,440,906 to Allen is considered to be a representative example of the closest prior art of record to the present invention as set forth in the independent claims 1, 17, 27, and 33.

Allen teaches a key cutting machine including a "frame" 10, a "key cutter" 20, and a "carriage" 22 having a "key blank holder" 28 mounted thereon (see Figures 1-2, for example). The key cutting machine taught by Allen is operable in a mode to duplicate a key, and is also operable in a separate mode to cut an original key from the manufacturer's specifications and the particular code indicated on the lock (col. 1, lines 10-16, for example), and thus, the key cutting machine operates in both a "duplication mode" and a "code cutting mode" as set forth in claim 33.

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Note that carriage 22 is adapted to move axially along shaft 21, and also to pivot about shaft 21 (see col. 3, lines 30-39, for example, also Figures 1-4), and thus, either of the horizontal or vertical directions as viewed in Figure 1 can be considered the axial direction of the frame as set forth in the independent claims 1, 17, and 27, and the other of the horizontal or vertical directions as viewed in Figure 1 can be considered the “transverse” direction of claims 1, 17, and 27. Note that the pivoting of the carriage 22 about the shaft 21 results in movement of the carriage 22 in the vertical direction as viewed in Figure 1.

Additionally, flat steel spring 50a (see Figure 4) forms parts of a biasing arrangement that has an “operable” position when elongate foot 46 of leg member 44 is pressed against the frame 10, shown in Figure 4, and an “inoperable” position when elongate foot 46 of leg member 44 is not pressed against frame 10, as shown in Figure 3 (see also col. 3, line 30 through col. 4, line 4, for example).

However, in the “operable” position of the biasing arrangement, the carriage 22 is biased in a clockwise rotation around the shaft 21 as viewed in Figure 4 (see col. 3, line 69 through col. 4, line 4) such that the carriage is biased away from the cutter wheel 20 (see especially col. 4, lines 2-4). Thus, Allen does not teach that “in a second operational mode, the bias assembly is operable to bias the carriage assembly **toward** the key cutter” as set forth in independent claim 1, nor that “in a second mode of operation”, the “biasing means biases the connecting means” (which movably connects the key blank to the frame as set forth earlier in the claim) “toward the key cutter” as set forth in independent claim 17, nor any step of selecting between modes wherein a bias assembly “for biasing the carriage assembly toward the key cutter” is either operational or not as set forth in independent claim 27.

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Additionally, there is no combinable teaching in the prior art of record that would reasonably motivate one having ordinary skill in the art to so modify the teachings of Allen, and thus, for at least the foregoing reasoning, Allen does not render obvious the present invention as set forth in independent claims 1, 17, and 27.

Additionally, re independent claim 33, there is not “engagement member moveably attached to the carriage, wherein the engagement member is moveable between a first position, corresponding to the code cutting mode, in which it engages the gauge, and a second position, corresponding to the duplication mode, in which it is disengaged from the gauge” as set forth in claim 33.

Additionally, there is no combinable teaching in the prior art of record that would reasonably motivate one having ordinary skill in the art to so modify the teachings of Allen, and thus, for at least the foregoing reasoning, Allen does not render obvious the present invention as set forth in independent claim 33.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Information Disclosure Statement

3. The Information Disclosure Statement (IDS) filed 7/12/2004 cites U.S. Pat. No. 1,755,921 to Williams, issued on September 16, 1930. However, Examiner notes that U.S. Pat. No. 1,755,921 was issued on April 22, 1930 to Gendler (not Williams), and relates to the art of bagel forming rather than key cutting. Thus, it appears that the patent number cited on the IDS

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may have included a typographical error. Thus, Examiner is not initialing that citation as having been considered. However, Examiner has cited U.S. Pat. No. 1,775,921 to Williams (issuing on September 16, 1930 and related to the art of key cutting) on an accompanying Notice of References Cited (PTO-Form 892).

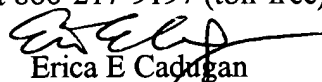
Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erica E. Cadugan whose telephone number is (571) 272-4474. The examiner can normally be reached on M-F, 6:30 a.m. to 4:00 p.m., alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Erica E Cadugan
Primary Examiner
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